

E-FILED IN OFFICE - AM
CLERK OF STATE COURT
GWINNETT COUNTY, GEORGIA
21-C-01913-S4
3/12/2021 1:08 PM
TIANA P. GARNER

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Lynda Dowell

1895 Phoenix Blvd., Suite 110
Atlanta, GA 30349

CIVIL ACTION **21-C-01913-S4**
NUMBER:

PLAINTIFF

VS.

Quik Trip R/A CT Corporation System
289 South Culver Street
Lawrenceville, GA 30046

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Keith R. Foster
1895 Phoenix Blvd., Suite 110
Atlanta, GA 30349

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 12th day of March, 2021.

TIANA P GARNER
Richard T. Alexander, Jr.,
Clerk of State Court

By Reyanne Hunt
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

SC-1 Rev. 2011

EXHIBIT

A

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TIANA P. GARNER

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

LYNDA DOWELL

Plaintiff,

Civil Action Number
21-C-01913-S4

v.

QUIK TRIP

Defendant.

COMPLAINT

COMES NOW, Lynda Dowell, (hereinafter “Plaintiff Dowell”) by and through her Counsel of record Keith Foster, Attorney in the above-style action files this complaint against the Defendant, Quik Trip (hereinafter “Defendant”) as follows,

1.

Defendant is a duly organized Georgia domestic company subject to the jurisdiction of this Court. Service of process may be perfected upon the Defendant through its registered agent, CT Corporation System located at 289 S. Culver Street, Lawrenceville, Georgia 30046-4805.

2.

On March 13, 2019, at approximately 3:55 pm, Plaintiff Dowell was at QuikTrip, located at 5050 Sugarloaf Parkway, Lawrenceville, Georgia, pump #21 to get some gas. When Plaintiff Dowell began to pump gas into her vehicle suddenly and without warning, the hose loosened and gasoline splashed wildly and splashed into both eyes of Plaintiff Dowell. Gasoline is a petroleum-based product that is highly flammable; used as a fuel

for vehicles, but also as a solvent to remove oils and fats. That information is importantly pertinent because instantly Plaintiff Dowell experienced pain and burning to her eyes.

3.

Defendant acted negligently in failing to maintain its premises and equipment in a safe condition for Plaintiff Dowell as well as failed to inspect the premises and equipment for potential hazards.

4.

Due to the negligence of the Defendant, Plaintiff Dowell suffered immediate injuries to eyes.

5.

That as a direct and proximate result of the Defendant's negligence, Plaintiff Dowell sustained the following injuries: chemical burn of both eyes, acute conjunctivitis of both eyes, burning and bilateral eye pain.

6.

At all times relative to this incident, Plaintiff Dowell was exercising due care for her own safety.

7.

At all times complained of, the unsafe and dangerous condition, and in particular, the loose hose, was a defect unknown to Plaintiff Dowell at the time of the incident and was not discoverable by her in time to exercise reasonable care.

8.

All of the Plaintiff's damages, as foresaid, were solely, directly and proximately caused by the negligence of the Defendant.

9.

Plaintiff Dowell has incurred the following special damages in an amount to be proven at trial.

WHEREFORE, Plaintiff respectfully prays as follows:

- (a) That judgment be entered against the Defendant in an amount to be determined by a jury of her peers;
- (b) That all costs of this action be cast against the Defendant and in favor of the Plaintiff; and,
- (c) That the Court grant such other and further relief that it deems just and proper.
- (d) Trial by Jury.

Respectfully Submitted,

/s/ Keith R. Foster

Keith R. Foster
State Bar No. 271001
Attorney for Plaintiff

THE FOSTER FIRM LLC
One Crown Center
1895 Phoenix Blvd., Suite 110
Atlanta, GA 30349
404-559-8325 phone
404-559-8335 fax
Email: kfoster@tfllaw.net

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

LYNDA DOWELL,)
)
Plaintiff,)
)
v.)
)
) CIVIL ACTION
QUIKTRIP,)
)
Defendant.)
)

DEFENSES AND ANSWER

COMES NOW, Defendant QUIKTRIP CORPORATION, appearing specially and without submitting to the jurisdiction and venue of this Court, and files this its Defenses and Answer to Plaintiff's Complaint for Damages, and shows the Court as follows:

FIRST DEFENSE

The Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be granted.

SECOND DEFENSE

Jurisdiction is improper as to Defendant.

THIRD DEFENSE

Venue is improper as to Defendant.

FOURTH DEFENSE

ANSWER

Defendant responds to the allegations of Plaintiff's Complaint as follows:

1.

Defendant denies the averments contained in paragraph 1 of Plaintiff's Complaint.

2.

Defendant denies the averments contained in paragraph 2 of Plaintiff's Complaint.

3.

Defendant denies the averments contained in paragraph 3 of Plaintiff's Complaint.

4.

Defendant denies the averments contained in paragraph 4 of Plaintiff's Complaint.

5.

Defendant denies the averments contained in paragraph 5 of Plaintiff's Complaint.

6.

Defendant denies the averments contained in paragraph 6 of Plaintiff's Complaint.

7.

Defendant denies the averments contained in paragraph 7 of Plaintiff's Complaint.

8.

Defendant denies the averments contained in paragraph 8 of Plaintiff's Complaint.

9.

Defendant denies the averments contained in paragraph 9 of Plaintiff's Complaint.

FIFTH DEFENSE

Defendant denies each and every averment contained in the paragraph beginning with the word "WHEREFORE" in the Plaintiff's Complaint. Any allegations or averments contained in Plaintiff's Complaint not specifically responded to above are hereby denied.

WHEREFORE, Defendant QUIKTRIP CORPORATION, having fully answered, demands that it be discharged with all costs cast upon the Plaintiff.

Respectfully submitted,

DOWNEY & CLEVELAND, LLP

By: /s/ Sean L. Hynes
SEAN L. HYNES
Georgia State Bar No. 381698
hynes@downeycleveland.com
Attorneys for Defendant

Downey & Cleveland, LLP
288 Washington Avenue
Marietta, GA 30060-1979
T: 770-422-3233
F: 770-423-4199

CERTIFICATE OF SERVICE

This is to certify that I have this day served the following counsel of record with a true and correct copy of the foregoing pleading via electronic service and/or by depositing said copy in the United States Mail, with sufficient postage affixed thereon, and properly addressed to the following:

Keith R. Foster, Esq.
The Foster Firm LLC
One Crown Center
1895 Phoenix Blvd., Ste. 110
Atlanta, Ga 30349

This 13th day of April, 2021.

DOWNEY & CLEVELAND, LLP

By: /s/ Sean L. Hynes
SEAN L. HYNES
Georgia State Bar No. 381698